

United States District Court for the District of Nebraska - Notice/Instructions to the Bar regarding Electronic Availability of Civil and Criminal Transcripts

Electronic Availability of Civil and Criminal Transcripts Pilot Project

The United States District Court for the District of Nebraska is participating in a pilot project regarding the electronic availability of civil and criminal transcripts, which is being conducted by the Administrative Office of the United States Courts. Said participation means that this court will follow the attached Judicial Conference policy on electronic availability (Attachment 1) before making official transcripts of court proceedings electronically available to the general public. Please read this notice and attached policy carefully.

Effective Dates

The pilot project applies to all transcripts of civil proceedings ordered on or after January 12, 2004, and 2) criminal proceedings ordered on or after June 15, 2004.

Summary of Policy

The policy establishes a procedure whereby counsel can request the redaction from the transcript of specific personal data identifiers before the transcript is made electronically available to the general public. The party who calls a witness to the stand, or referred to and read from a document submitted into evidence, is responsible for requesting redaction. If a judge asks a question requiring later redaction, the party who called that witness remains responsible for the redaction.

- A party must file a Notice of Intent to Request Redaction within five business days of the filing of the official transcript by the court reporter.

Note: If a party fails to request redaction within this time frame, the transcript will be made remotely electronically available to the general public without redaction.

Reference: A Notice of Intent to Request Redaction form is available on the court's website at <http://www.ned.uscourts.gov/local/local.html>.

- If a party files a Notice of Intent to Request Redaction, the transcript will not be made remotely electronically available to the general public until the party submits a statement of redaction to the court reporter/transcriber and the redactions are performed.

Note: A copy of the officially filed transcript may be purchased from the court reporter/transcriber or the clerk's office during this time and will be available for viewing on the public terminals in the clerk's office. Counsel of record may also access unredacted transcripts on PACER for redaction purposes.

- Following the filing of a Notice of Intent to Request Redaction, the parties have 21 calendar days from the date the transcript is filed with the clerk, or longer if ordered by the court, to submit a statement to the court reporter/transcriber indicating where the personal identifiers appear in the transcript by page and line and how they are to be redacted. (See Attachment 2 for "Instructions for Submitting a Statement of Redaction with a Court Reporter/Transcriber.")

Note: If a party fails to submit the statement within this time frame, the transcript will be made remotely electronically available to the general public without redaction.

Requests for Transcripts

Any party ordering a transcript shall serve a copy of the Request for Transcript form on all other parties. A Request for Transcript form is available on the court's website at <http://www.ned.uscourts.gov/local/local.html>.

Questions

Please direct all questions concerning the court's participation in this pilot project to the Office of the Clerk at 402.661.7350 or toll free at 1.866.220.4831

Electronic Availability of Transcripts of Court Proceedings

Courts making electronic documents remotely available to the public, whether documents are filed electronically or converted to electronic form, shall make electronic transcripts of proceedings remotely available to the public if such transcripts are otherwise prepared.

Within five business days of the filing by the court reporter/transcriber of the official transcript with the clerk's office pursuant to 28 U.S.C. § 753, each party shall inform the court, by filing a notice of redaction with the clerk, of the party's intent to redact personal data identifiers from the electronic transcript of the court proceeding. Such personal data identifiers include, in all cases: Social Security numbers; financial account numbers; names of minor children; dates of birth; and home addresses of individuals (in criminal cases only). The filing of this notice triggers the procedures set out below. If no such notice is filed within the allotted time, the court will assume redaction of personal data identifiers from the transcript is not necessary, and the transcript may be made remotely electronically available to the general public at the close of the fifth business day, unless the court, for good cause related to the application of the Judicial Conference policy on privacy and public access to electronic case files, finds that the transcript should not be available electronically for up to a period of 60 days.

If a notice of redaction is filed by any party, following the filing of the official transcript with the clerk's office, the official transcript is not to be made remotely electronically available to the general public. Within 21 calendar days of the filing of the transcript, or longer if the court so orders, the parties shall submit to the court reporter/transcriber a statement indicating where the following personal data identifiers appear in the transcript: Social Security numbers; financial account numbers; names of minor children; dates of birth; and home addresses of individuals (in criminal cases only). The court reporter/transcriber shall partially redact these personal data identifiers from the electronic transcript as follows:

- Social Security numbers to the last four digits;
- financial account numbers to the last four digits;
- dates of birth to the year;
- names of minor children to the initials; and
- home addresses to the city and state (criminal cases only).

During the 21-day period, or longer if the court so orders, attorneys may move the court for any additional redactions to the transcript. The transcript shall not be remotely electronically disseminated to the general public until the court has ruled upon any such motion.

The Director of the Administrative Office may lengthen the period of time for electronic filing of a transcript when, in the Director's judgment, a district justifies such an extension.

POLICY NOTE

This policy is intended to apply to electronic transcripts, whether originally filed in electronic form or converted from hard copy to electronic form. It applies to electronic transcripts made available via CM/ECF, WEBPACER, PACER, RACER or a non-court related electronic depository (e.g., Exemplaris). It does not affect in any way the obligation of the court reporter/transcriber to file promptly with the clerk of court the court reporter's/transcriber's original records of a proceeding or the inclusion of a filed transcript with the records of the court pursuant to 28 U.S.C. § 753. This policy does not affect the obligation of the clerk to make the official transcript included in the court file available for copying by the public without further compensation to the court reporter/transcriber pursuant to Judicial Conference policy.

If a party desires to respond to any notice of redaction or motion for additional redaction, the court may establish a briefing schedule to provide sufficient time for such response.

Nothing in this policy is intended to create a private right of action against court reporters/transcribers for any failure to redact the required information or for any errors associated with such redaction.

It is not the intent of this policy to affect court reporter/transcriber compensation in any way.

This policy is intended to deal with the Judicial Conference policy on privacy and public access to electronic case files as it applies to the electronic filing of transcripts. It is not intended to change any rules or policies with respect to sealing or redaction of court records for any other purpose.

This policy does not prevent the production of a transcript on an expedited basis for a party, or any other person or entity, that may order such a transcript, subject to whatever court rules are currently imposed to protect sealed materials. Any non party that orders a transcript on an expedited basis should be alerted to the Judicial Conference policy on privacy and public access to electronic case files.

Instructions for Submitting a Statement of Redaction to a Court Reporter/Transcriber

Following the filing of a Notice of Intent to Request Redaction, the parties have 21 calendar days from the date the transcript was filed with the clerk, or longer if ordered by the court, to submit a statement to the court reporter/transcriber indicating where the personal identifiers appear in the transcript by page and line and how they are to be redacted. **Do not file the statement with the clerk's office.** The contact information for the court reporter/transcriber can be found in the transcript docket entry.

The statement must indicate where the personal identifiers appear in the transcript by page and line and how they are to be redacted. For example, if a party wanted to redact the Social Security number 123-45-6789 appearing on page 12, line 9 of the transcript the statement would read:

Social Security number 123-45-6789 on page 12, line 9 should be redacted to read xxx-xx-6789.

Only the personal identifiers listed below may be automatically redacted

- Social Security numbers to the last four digits;
- financial account numbers to the last four digits;
- dates of birth to the year;
- names of minor children to the initials; and
- home addresses to the city and state (criminal cases only).

Upon request of a party, the court reporter is only allowed to redact the personal identifiers listed above. If a party wants to redact other information, the party should file a motion with the court requesting further redaction and serve all parties and the court reporter/transcriber within the 21-day period.